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Paper No. 3

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OFFICE OF PETITIONS

In re Application of
Lewis et al.
Application No. 10/039,117
Filed: November 20, 2001
Attorney Docket No. CISC722

ON PETITION

This is a decision on the petition under 37 CFR 1.181 and 1.10 filed March 4, 2002, to accord the above-identified application a filing date of November 20, 2001, instead of January 8, 2002.

The petition is **granted**.

Petitioners attempted to deposit the application in "Express Mail" service with the U. S. Postal Service (USPS), on November 20, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).


In accordance with the O.G. Notice, petitioners have mailed the USPTO a copy of the correspondence by first class mail with a statement by the person who originally deposited the correspondence with the USPS by Express Mail. The properly signed and dated statement declares that attorney Limper attempted to deposit the correspondence into Express Mail on November 20, 2001, but the USPS refused to accept it.

The evidence is convincing that petitioners attempted to deposit the application as "Express Mail" with the U.S. Postal Service on November 20, 2001, but due to a postal emergency, the package was refused by the USPS. In addition, petitioners promptly filed the application by another means of postal delivery after the Express Mail package was refused by the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 20, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 20, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


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for Patent Examination Policy